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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,123	06/09/2000	John C. Pederson	N47.2-9185	3286

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VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT PAPER NUMBER

2632

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/591,123

Applicant(s)

PEDERSON, JOHN C.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Preliminary Amendment filed 6/9/00.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 43-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. This Office action is in response to the preliminary amendment filed June 9, 00. Claims 1-42 have been canceled. New claims 48-74, improperly numbered, which have been renumbered as 43-69 have been added.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 48, 51, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "may be" is indefinite.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 48-69 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 48-76, 78, and 80-99 of copending Application No. 09/590,610. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations in the combination of claims 43-69 are substantially claimed in the combination of claims 49-97 of Application No. 09/590,881.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

5. Claims 43, 45, 47, 49, 50, 52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schugt et al. (US 5,934,694) in view of Hall (US Patent No. 5,585,783).

**Claim 43:**

Schugt et al. discloses a warning light for use with a motorized vehicle. The warning light in Schugt is movable with respect to the motorized vehicle. The light structure in Schugt does not include the claimed features of light support having front side, a single row of LEDs, a controller to provide more than two different types of visually distinct warning light signals.

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However, the use of a warning of such claimed features is old in the art as taught by Hall. Hall teaches:

- a. A light support 22 having a front side (fig. 1)
- b. A plurality of LEDs 16 arranged about and extending from the front side of the light support 22
- c. A controller U1 in communication with light sources for selectively activating the LEDs thereby producing more than two different types of visually distinct warning light signals (that is, continuous, flashing, or rotating)(see fig. 5), the LED receiving power from a power source wherein the light support .

Therefore, it would have been obvious to one skilled in the art to use a warning light of Hall's in the system of Schugt because the warning light in Hall would attract a viewer's attention more than the light in Schugt since it is capable of producing many different types of lighting affect.

The signaling system in Schugt rotates. One skilled in the art would have readily recognized that a gyrator is used in the system of Schugt. It would have been obvious to one skilled in the art to use the gyrator in the combined system of Schugt and Hall because it may be used to further provide oscillating motion of the light which is preferred in Schugt.

Regarding the claimed plurality of light support engaged to the vehicle, it would have been obvious to one skilled in the art to use more than one light supports on a vehicle as desired because the function of the device as to provide warning signal light would not thereby be modified.

Claim 45:

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In Hall, more than two different types of visually distinct warning light signals are produced independently of one another I.e. continuous, flashing, or rotating.

Claim 47:

The controller U1 in Hall is constructed and arranged to activate the LEDs on each of the first visible exterior surface with a predetermined common warning light.

Claim 49:

The light support in Hall comprises a back side having a second visible exterior surface having a plurality of LEDs arranged about and attached to the second visible exterior surface.

Claim 50:

The claimed illumination of more than the first exterior surfaces of more than one light supports with a common warning light signal would not constitute an inventive step because the use of duplicate parts for multiple effects would not thereby modified the function of the light supports and the warning light signals.

Claim 52:

In Hall, the at least one controller is constructed and arranged to independently control the light emitting diodes on the first visible exterior surfaces and the second visible exterior surfaces thereby providing at least one visually distinct warning light signal to each of the first and second visible surfaces.

Claim 54:

The controller U1 has a microprocessor.

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6. Claims 55-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schugt et al. (US 5,934,694) in view of Hall (US Patent No. 5,585,783) and Deese (US Patent No. 5,806,965).

Claims 55-56:

The Hall reference fails to disclose LEDs of different colors. However, Deese teaches the use of different colored LEDs and controlling the LEDs to create at least one of a single colored light signal and at least one of a multi-colored warning light signal. Col. 7, last paragraph. It would have been obvious to one skilled in the art to use colored LEDs and the warning patterns taught in Deese in the combination of Hall and Schugt because it would provide a more effective warning signal.

Claim 57:

The warning light signals in Hall are selected from a group consisting of a revolving light, an alternating light, an oscillating light, a flashing light, a stroboscopic light and any combinations thereof.

Claim 58:

The LEDs in Hall are illuminated to create the appearance of the rotation.

Claim 59:

The LEDs in the combined system of Hall and Deese when illuminated would create the appearance of multi-colored rotation.

Claim 60:

The controller U1 in Hall selectively activates the light emitting diodes to display a plurality of visually distinctive warning light signals.

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Claim 61:

The warning signal in Hall is not a directional indicator. However, it would have been obvious to one skilled in the art that to use an directional indicator in the Hall signal light as desired because the Hall device is used as a marker device to direct passer-bys.

Claim 62:

Regarding the claimed external programmable controller, one skilled in the art to readily recognize that in order for the warning signal light in Hall to produce different warning patterns it must be programmed to do so and therefore it would have been obvious to one skilled in the art to use a programmable device to program the controller to produce different warning signals as desired.

Claim 63:

The vehicle in Shugt is a motorized vehicle.

Claim 64:

Hall suggests in the background of the invention that the light is a marker light employed on vehicles and to be used as a hazard warning device used by fire or police departments which explicitly suggests that the light is used on emergency vehicle.

Claim 65:

The light in Hall comprises at least one light support frame, at least one of the plurality of light supports being attached to the light support frame.

Claim 66:

The use of directional indicator as a warning light is conventional in the art. Thus, it would have been obvious to one skilled in the art to use directional indicator in the combined



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system of Schugt, Hall, and Deese because it is conventional in the art for providing direction indication.

Claim 67:

Controller U1 in Hall comprises at least one sector, the controller providing each of the at least one sectors with at least one visually distinct warning light signal.

Claim 68:

The rotation appearance of the light in Hall is created by sequential illumination of the LEDs by sequencer 38.

Claim 69:

The light in Shugt is a rotating beacon. The combined system of Hall and Shugt would provide a warning light system with rotational mechanism, at least one light support rotationally mounted to rotational mechanism for providing at least one light support with rotational movement relative to the vehicle.

***Allowable Subject Matter***

7. Claims 44 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 703-308-6738. The examiner can normally be reached on Mon-Thurs, 9:00am-6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 703-305-4717. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, appearing to read "Julie Lieu", with a long horizontal flourish extending to the right.

Julie Lieu  
Primary Examiner  
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jl  
March 9, 2002